



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 22, 1995

Mr. Dale Freeman
Superintendent
Lueders-Avoca Independent
School District
P.O. Box 68
Lueders, Texas 79533

OR95-785

Dear Mr. Freeman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30941.

The Lueders-Avoca Independent School District received a request for "current copies of Driving Certificate(s) and Bus Driving Physical(s)" for two employees of the school district. While not citing any particular exceptions under the act, you question whether the physicals are excepted as medical records that are confidential by law. We trust that you have already provided the requestor with copies of the driving certificates.

Section 552.101 excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The physical examination form is to be filled out and signed by an "examining doctor." The Medical Practice Act in section 5.08(b), article 4495b, V.T.C.S., expressly makes confidential "[r]ecords of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician," but provides for release of such records in section 5.08(h)(5) to "any person who bears a written consent of the patient or other person authorized to act on the patient's behalf for release of confidential information." Section 5.08(j)(1) provides that "[c]onsent for the release of confidential information must be in writing and signed by the patient . . . or a personal representative if the patient is deceased." If these examination forms were actually filled out by a physician or a person acting under the direction of a physician, the Medical Practice Act prohibits their release, except under the conditions specified in that act. Open Records Decision No. 598 (1991).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive, flowing style.

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/PIR/rho

Ref.: ID# 30941

Enclosure: Submitted document

cc: Ms. Bettye Kennedy Lofton
Route 6, Box 358
Abilene, Texas 79601
(w/o enclosure)